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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2011-0077]

Notice of Decision to Authorize the Importation of Fresh Tejocote Fruit From Mexico Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to authorize the importation into the continental United States of fresh tejocote fruit from Mexico. Based on the findings of a pest risk analysis, which we made available to the public for review and comment through a previous notice, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh tejocote fruit from Mexico.

DATES: Effective [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. David B. Lamb, Senior Regulatory Policy Specialist, PHP, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 851-2103.

SUPPLEMENTARY INFORMATION:

Under the regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-71, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56-4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis (PRA), can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under that process, APHIS publishes a notice in the Federal Register announcing the availability of the PRA that evaluates the risks associated with the importation of a particular fruit or vegetable. Following the close of the 60-day comment period, APHIS may begin issuing permits for importation of the fruit or vegetable subject to the identified designated measures if: (1) No comments were received on the PRA; (2) the comments on the PRA revealed that no changes to the PRA were necessary; or (3) changes to the PRA were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination of risk.

In accordance with that process, we published a notice¹ in the Federal Register on September 29, 2011 (76 FR 60449-60450, Docket No. APHIS-2011-0077), in which we announced the availability, for review and comment, of a PRA that evaluated the risks associated with the importation into the continental United States of fresh tejocote fruit (Crataegus pubescens) from Mexico. The PRA consisted of a risk assessment identifying pests of quarantine significance that could follow the pathway of importation of fresh tejocote fruit from

¹To view the notice, the PRA, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0077>.

Mexico into the continental United States and a risk management document identifying phytosanitary measures to be applied to that commodity to mitigate the pest risk. We solicited comments on the notice for 60 days ending on November 28, 2011. We received five comments by that date. They were from a State agricultural official, a foreign national plant protection organization (NPPO), two domestic tejocote growers, and a domestic fruit and vegetable distributor. Four of these commenters opposed the importation of fresh tejocote fruit from Mexico into the United States.

Two commenters expressed a general concern about the phytosanitary risk of importing tejocote fruit from Mexico but did not mention a specific pest.

The PRA did not identify any pests of quarantine significance as following the pathway of commercial shipments of tejocote from Mexico into the United States. We concluded that the required phytosanitary measures listed in the PRA will result in the effective removal of any potential quarantine pests associated with the importation of tejocote from Mexico.

Another commenter opposed the importation of fresh tejocote fruit from Mexico on grounds that it has been demonstrated to be a host for Mediterranean fruit fly (Ceratitidis capitata), or Medfly. The commenter stated that the Mexican State of Chiapas has had recurring outbreaks of Medfly and requested that imports of fresh tejocote fruit from Mexico not be permitted into the commenter's State until the shipping protocol described in the PRA has had sufficient time to demonstrate that Medfly outbreaks in Chiapas do not result in an introduction of Medfly into the United States. Another commenter opposed to the importation of tejocote fruit cited Web sites and unspecified articles and stated that they contain information about tejocote crop damage caused by fruit flies in parts of Mexico, including Chiapas, where tejocote is grown commercially.

We were unable to find information about tejocote crop damage in Mexico on the Web sites listed by the commenter. APHIS recognizes Mexico as having eradicated Medfly, a determination that has been corroborated by CABI, an internationally recognized pest monitoring resource.² While there have been occasional introductions of Medfly along the border between the Mexican State of Chiapas and Guatemala, APHIS has determined that no established populations of Medfly exist in any part of Mexico. Furthermore, APHIS operates the Moscamed program in cooperation with Guatemala and Mexico to detect and eradicate introductions into Mexico through surveillance trapping, fruit sampling, biological and mechanical controls, release of sterile Medflies, public education efforts, and the establishment of fruit fly-free areas. We have determined that the Moscamed program possesses the capability to detect, contain, and eradicate Medfly outbreaks within commercial tejocote growing areas of Mexico. If an outbreak of Medfly were to occur and APHIS determined that it posed an unacceptable phytosanitary risk to the United States, we would immediately prohibit the importation of fresh tejocote fruit from Mexico. This practice is consistent with actions we have taken toward imports of commodities from other countries considered free of certain quarantine pests when such pests appear in those countries and pose an unacceptable import risk to the United States.

The PRA identified three designated measures as necessary to ensure the safe importation of tejocote fruit from Mexico:

- The tejocote fruit must be imported in commercial consignments only.
- Each consignment of tejocote fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Mexico stating the following: “Tejocote fruit in this consignment were inspected and are free of pests.”

²CABI Invasive Species Compendium 2015: <http://www.cabi.org/isc/datasheet/12367>.

- Each shipment of tejocote fruit is subject to inspection upon arrival at port of entry to the United States.

One commenter noted that the PRA identified no quarantine pests likely to follow the pathway of commercial consignments. As a result, the commenter suggested that port-of-entry inspection be the only required measure.

APHIS has concluded that the measures indicated in the PRA are necessary to effectively mitigate the pest risk associated with fresh tejocote fruit imported from Mexico.

Only commercial consignments of tejocote fruit will be allowed to be imported from Mexico for sale and distribution. Commercial consignments, as defined in § 319.56-2, are consignments that an inspector identifies as having been imported for sale and distribution. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control.

Consignments of fresh tejocote fruit from Mexico will also be required to be accompanied by a phytosanitary certificate. The phytosanitary certificate provides additional assurance that the NPPO of Mexico has inspected the commodity and determined that it meets the requirements for importation into the United States and is free of pests.

Three commenters opposed the importation of tejocote fruit from Mexico on grounds that U.S. growers could suffer economically as a result of competition with imported tejocote fruit.

Under the Plant Protection Act (7 U.S.C. 7701 et seq.), we have the authority to prohibit or restrict the importation of plants and plant products only when necessary to prevent the introduction into or dissemination of plant pests or noxious weeds within the United States. We

do not have the authority to restrict imports solely on the grounds of potential economic effects on domestic entities that could result from increased imports.

Therefore, in accordance with the regulations in § 319.56-4(c)(2)(ii), we are announcing our decision to authorize the importation into the continental United States of fresh tejocote fruit from Mexico subject to the following phytosanitary measures:

- The tejocote fruit must be imported in commercial consignments only.
- Each consignment of tejocote fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Mexico stating the following: “Tejocote fruit in this consignment were inspected and are free of pests.”
- Each shipment of tejocote fruit is subject to inspection upon arrival at port of entry to the United States.

These conditions will be listed in the Fruits and Vegetables Import Requirements database (available at <http://www.aphis.usda.gov/favir>). In addition to these specific measures, fresh tejocote fruit from Mexico will be subject to the general requirements listed in § 319.56-3 that are applicable to the importation of all fruits and vegetables.

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 25th day of March 2015.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

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